

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**JUSTIN WEISS, M.D.**

Holder of License No. 9418  
For the Practice of Allopathic Medicine  
In the State of Arizona

Case No. MD-04-1032A

**CONSENT AGREEMENT FOR  
LETTER OF REPRIMAND**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Justin Weiss, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent acknowledges that he has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. Respondent understands that by entering into this Consent Agreement, he voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. Respondent acknowledges and understands that this Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

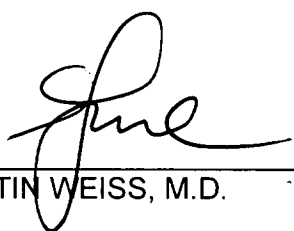
4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government

1 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
2 any other state or federal court.

3 5. Respondent acknowledges and agrees that, although the Consent  
4 Agreement has not yet been accepted by the Board and issued by the Executive Director,  
5 upon signing this agreement, and returning this document (or a copy thereof) to the  
6 Board's Executive Director, Respondent may not revoke the acceptance of the Consent  
7 Agreement. Respondent may not make any modifications to the document. Any  
8 modifications to this original document are ineffective and void unless mutually approved  
9 by the parties.

10 6. Respondent further understands that this Consent Agreement, once  
11 approved and signed, is a public record that may be publicly disseminated as a formal  
12 action of the Board and will be reported to the National Practitioner Data Bank and to the  
13 Arizona Medical Board's website.

14 7. If any part of the Consent Agreement is later declared void or otherwise  
15 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force  
16 and effect.

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20 JUSTIN WEISS, M.D.  
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DATED: 10/31/05

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for the regulation and control of  
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of license number 9418 for the practice of  
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-04-1032A after receiving notification of  
7 a malpractice settlement involving Respondent's care and treatment of a 47 year-old  
8 female patient ("W.O.").

9 4. On April 25, 2000 W.O. underwent surgical laminectomies of the L4-L5-S1  
10 vertebrae and anterior and posterolateral fusion with internal fixation for spondylolisthesis  
11 and spinal stenosis. Following surgery W.O. experienced some residual weakness of the  
12 extensor hallucis longus on the right side.

13 5. On September 6, 2000 W.O. slipped and fell at home onto her knees and  
14 then rolled onto her left hip. She was seen in the emergency department for low back pain,  
15 which was noted as unchanged since her surgery.

16 6. Respondent, a radiologist, reviewed W.O.'s x-rays taken in the emergency  
17 department and failed to diagnose W.O.'s serious spinal compromise.

18 7. The Board's medical consultant noted that the x-rays were suboptimal;  
19 however, the fracture at the L3-4 level was adequately visualized.

20 8. The standard of care required Respondent to accurately describe the  
21 radiographic findings and report them accordingly. If the files are inadequate for diagnosis  
22 the standard of care required Respondent to request repeat studies.

23 9. Respondent deviated from the standard of care because he failed to  
24 accurately report that W.O. had an apparent fracture-subluxation of the lumbar spine  
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1 above the level of fusion with a retrolisthesis of L3 on L4 with possible spinal canal  
2 damage. If Respondent felt the films were inadequate, he did not request repeat studies.

3 10. W.O. was harmed because she had neurologic consequences of the  
4 fracture-dislocation with progressive neurological deficits.

5 **CONCLUSIONS OF LAW**

6 1. The Board possesses jurisdiction over the subject matter hereof and over  
7 Respondent.

8 2. The conduct and circumstances described above constitute unprofessional  
9 conduct pursuant to A.R.S. § 32-1401(27)(q) – (“[a]ny conduct or practice that is or might  
10 be harmful or dangerous to the health of the patient or the public.”)

11 3. The conduct and circumstances described above constitute unprofessional  
12 conduct pursuant to A.R.S. § 32-1401 (27)(ll) – (“[c]onduct that the board determines is  
13 gross negligence, repeated negligence or negligence resulting in harm to or the death of a  
14 patient.”)

15 **ORDER**

16 IT IS HEREBY ORDERED THAT:

17 1. Respondent is issued a Letter of Reprimand for failure to correctly read an x-  
18 ray.

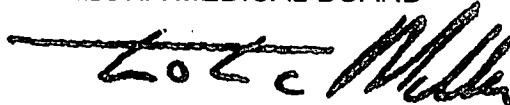
19 2. This Order is the final disposition of case number MD-04-1032A.

20 DATED AND EFFECTIVE this 12<sup>th</sup> day of December, 2005.

21  
22 (SEAL)



ARIZONA MEDICAL BOARD



By \_\_\_\_\_  
TIMOTHY C. MILLER, J.D.  
Executive Director

1 ORIGINAL of the foregoing filed this  
2 12<sup>th</sup> day of December, 2005 with:

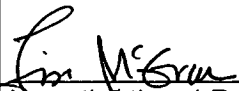
3 Arizona Medical Board  
4 9545 E. Doubletree Ranch Road  
5 Scottsdale, AZ 85258

6 EXECUTED COPY of the foregoing mailed  
7 this 12<sup>th</sup> day of December, 2005 to:

8 Mr. Tom Slutes  
9 Slutes Sakrison & Hill Pc  
10 33 N Stone Avenue, Suite 1000  
11 Tucson, AZ 85701-1436

12 EXECUTED COPY of the foregoing mailed  
13 this 12<sup>th</sup> day of December, 2005 to:

14 Justin Weiss, M.D.  
15 Address of Record

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17 Investigational Review  
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